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C O N F I D E N T I A L KIGALI 000178

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DEPARTMENT FOR DAS SWAN, AF/C, DRL, AF/RSA AND PM
EUCOM FOR POLAD, OSD FOR C ITKANS

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [ASEC](#) [MOPS](#) [AU](#) [SU](#) [RW](#)
SUBJECT: AMBASSADOR DISCUSSES TWO LEAHY ISSUES WITH FOREIGN
MINISTER

REF: A. STATE 15216
[1](#)B. KIGALI 146

Classified By: Poloff GLearned for reasons 1.4 (b,d)

[1](#)1. (U) This is an action request, please see paragraph 4.
Due to time constraints in the case of BG Muganga, post
requests a response from Department no later than opening of
business (Washington time) 23 Feb.

[1](#)2. (C) On 22 Feb Ambassador Arietti met with Foreign Minister
Murigande to receive GOR's response to his request for
information on the case of LtCol Goodman Ruzibiza (ref B).
Murigande briefly reiterated that the GOR considers that
Ruzibiza was not convicted of human rights violations and is
fit for duty. It believes that replacing him would be an act
of injustice, but is prepared to do so if the USG continues
to require this after reviewing the information provided by
the GOR.

[1](#)3. (C) Murigande then asked about the status of Brigadier
General Mubarakh Muganga, due to take part in DOD sponsored
training in Ethiopia. (Note. DRL has not cleared Muganga for
USG training due to a human rights allegation. End note.)
Ambassador explained that the question about Muganga had
arisen when the USG became aware of an allegation in one
paragraph in the book "Rwanda: l'Histoire Secret" accusing
Muganga of "luring" a dissident Capt to Rwanda to be tortured
and killed. This allegation raised the issue and the USG had
not yet cleared Muganga to attend the training. (Note.
Muganga is due to leave 24 Feb for Addis Ababa to attend
DoD's Africa Center for Strategic Studies Senior Leaders
Seminar. End note.) Murigande seemed perplexed that a
single, unverified accusation would be accepted as credible
by the USG and argued vehemently that the source of the
allegation was not reliable. He added that USG dependence on
single source information from a known political opponent of
the government would lead to continued problems as almost
every member of the Rwandan Defense Forces (RDF) and GOR
could have allegations made against them by regime opponents.

[1](#)4. (C) Recommendation: Embassy believes the two cases which
have arisen under the Leahy Amendment are very different and
merit separate decisions. According to the GOR response,
there is no question of fact that Lt. Col Ruzibiza was a
responsible officer of a battalion that was engaged in a
conflict that led to the loss of civilian lives. The GOR
found that he was not responsible for deliberate actions that
led to the loss of civilian lives, but does not deny that
civilians died during the incident. It is of course the case
that civilians die in many military actions, as has been the
case in conflicts in which American forces and those of other

democracies have been involved. While such civilian deaths are tragic, and need to be investigated, the USG and other democracies do not hold all individual soldiers or commanders responsible for human rights abuses unless there is evidence to support this on a case by case basis. This seems to be the issue in the case of Lt. Col Ruzibiza. The GOR has made a deliberation that while Ruzibiza was guilty of a failure of command, he was not guilty of ordering the deaths of civilians. Embassy believes that our final decision on this case should be consistent with USG policy in implementing the Leahy Amendment as applied globally. This is a gray area, and Embassy requests that Department review the information provided by FM Murigande and provide its final position. The GOR has indicated that it will comply with a final USG decision and would replace Ruzibiza if necessary to retain military cooperation (Murigande indicated that Ruzibiza has already been suspended from his command position pending final resolution of discussions with the USG.)

In the case of Muganga, there is no evidence that he was involved in any wrongdoing aside from the one paragraph in a book written by Abdul Ruzibiza. This is the same book that accuses President Kagame and other senior leaders of the GOR of having deliberately shot down the aircraft of former president Habariyamana in 1994, which touched off the genocide. The GOR has repeatedly dismissed the allegations of this writer and post is aware that many commentators have disputed and discredited elements of his allegations. The USG is continuing to act towards the GOR as if these allegations are unproven and we have not taken steps to distance ourselves from President Kagame or his government. In the absence of any evidence to support the allegation against Muganga, post does not believe he should be prevented from attending DOD sponsored training. As the Foreign Minister has stated there are constant allegations against

members of the current Rwandan government from members of the Rwandan Diaspora. If we take the position that the mere existence of an allegation, without any supporting evidence, disqualifies individuals from participating in USG funded military training we will put the entire military assistance program at risk. We understand that the Leahy amendment requires "credible evidence" and we are not aware that such evidence exists in this case. End recommendation.

15. (SBU) GOR's statement regarding case of LtCol Goodman Ruzibiza.

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Explanation of the case of Lt. Col. Goodman B. Ruzibiza

On September 11, 1995, around 1900 hours in Kanama district, at Nyakiriba, one 2nd Lt. Claude Ruraza while shifting from Bigogwe to Gisenyi, was ambushed and killed by unknown people, probably insurgents who were operating in that area at the time.

The general area where the incident took place was under 5th Battalion, headquartered in Bigogwe and commanded by Maj. George Rwigamba, and Maj. Goodman Bagurete Ruzibiza as the Operations Officer (OPTO).

Upon learning about the incident, the two Commanders deployed two platoons commanded by 2nd Lt. Emmanuel Rutayisire and 2nd Lt. Vincent Sano respectively with the instruction to &siege the area where 2nd Lt. Claude Ruraza was killed until the morning and make a cordon and search.⁸

The mission as stated above aborted because during the very night the enemy engaged the two platoons and fighting ensued. During the fighting many civilians were killed.

As was then the practice in the Rwanda Patriotic Army (RPA) and still is in the Rwanda Defense Force (RDF) when there is death of civilians in any operation; the four commanders were all arrested, jailed and tried before the Military High Court.

On September 12, 1997, the Military High Court issued the following judgment:

-- The charges of murder and complicity to murder that were brought against the four officers by prosecution were rejected because it was established that these officers never gave any order to kill civilians;
-- However as Commanders they were found guilty of failing to exercise effective command responsibility over their troops, so as to prevent the death of innocent civilians;

The four commanders were sentenced to 28 months of close custody.

Having completed his sentence in jail on December 24, 1997, Maj. Goodman B. Ruzibiza was released.

In his letter dated August 19, 2004, Maj. Goodman B. Ruzibiza requested the President of the Military High Court to be rehabilitated.

On May 11, 2005, the Military High Court rehabilitated Maj. Goodman Ruzibiza basing on the Law Nr. 13/2004 of 30/07/2004 determining the Code of Criminal procedure. His rehabilitation removed conviction and sentence and stopped all resulting disqualifications.

The RPA then and the RDF now are known to be highly disciplined armies. The proof of this discipline is displayed in Darfur. The high level of discipline has been achieved partly because they (RPA then and RDF now) always hold their Commanders responsible of any of their command failures. It is this tough disciplinary practice that landed then Maj. Goodman B. Ruzibiza in prison for 28 months. As you very well know, in an insurgency environment, many officers find themselves in a situation similar to that of Maj. Goodman B. Ruzibiza. If such situation were to affect their career for good, many armies around the world would be deprived of their good commanders and efficiency terribly affected.

Response of the Government of Rwanda to the Request of the US Government

On the basis of the case as explained above, the Government of Rwanda feels that it would be an injustice to prevent Lt.

Col. Goodman B. Ruzibiza to benefit from the training offered under ACOTA. We therefore hope that the explanation given above will convince the US Government that Lt. Col. Goodman B. Ruzibiza does not bear nay criminal responsibility but probably had then command weaknesses that have been addressed or could even be further addressed by his participation in the ACOTA training.

However, if the US Government feels that even after the above explanation it could not continue the training of the unit commanded by Lt. Col. Goodman B. Ruzibiza, the Government of Rwanda is prepared in the interest of the military cooperation with USA and in the interest of the excellent relations that exist between our two countries, to let Lt. Col. Goodman Ruzibiza suffer an injustice by replacing him by another commanding officer

//END TEXT//

ARIETTI